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Insolvency Proceedings and Commercial Arbitration

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Insolvency Proceedings And Commercial Arbitration

**Patrick Wautelet, Thalia Kruger, Govert
Coppens**



Insolvency Proceedings And Commercial Arbitration:

Insolvency Proceedings and Commercial Arbitration Vesna Lazić, 1998-11-18 Throughout the work introductions and conclusions serve as overviews of particular components of the study and set out the observations drawn An overall summary and conclusion section crystallizes the points made International Commercial Arbitration Gary Born, 2009 International Commercial Arbitration Third Edition is an authoritative treatise providing the most complete available commentary and analysis on all aspects of the international commercial arbitration process This completely revised and expanded edition of Gary Born's authoritative work is divided into three main parts dealing with the International Arbitration Agreement International Arbitral Procedures and International Arbitral Awards The Third Edition provides a systematic framework for both current analysis and future developments as well as exhaustive citations from all leading legal systems

INTERNATIONAL ARBITRATION AGREEMENTS Legal Framework for International Arbitration Agreements International Arbitration Agreements and the Separability Presumption Choice of Law Governing International Arbitration Agreements Formation Validity and Legality of International Arbitration Agreements International Arbitration Agreements and Competence Competence Effects and Enforcement of International Arbitration Agreements Interpretation of International Arbitration Agreements INTERNATIONAL ARBITRAL PROCEDURES AND PROCEEDINGS Legal Framework for International Arbitral Proceedings Selection Challenge and Replacement of Arbitrators in International Arbitration Rights and Duties of International Arbitrators Selection of Arbitral Seat in International Arbitration Procedures in International Arbitration Disclosure and Discovery in International Arbitration Provisional Measures in International Arbitration Consolidation Joinder and Intervention in International Arbitration Choice of Substantive Law in International Arbitration Confidentiality in International Arbitration Legal Representation and Professional Conduct in International Arbitration INTERNATIONAL ARBITRAL AWARDS Legal Framework for International Arbitral Awards Form and Content of International Arbitral Awards Correction Interpretation and Supplementation of International Arbitral Awards Annulment of International Arbitral Awards Recognition and Enforcement of International Arbitral Awards Preclusion Lis Pendens and Stare Decisis in International Arbitral Awards **Insolvency in Commercial Arbitration** Fabian van den Ven, 2023-08-31 The settling of disputes in international trade and in large and technically complex construction projects can hardly be imagined without the institution that is arbitration Another thing we can be sure about is that insolvency will also remain a part of the lifecycle of business entities within the currently existing economic system Whereas insolvency proceedings are heavily regulated with little leeway for the parties the central tenet of arbitration is the autonomy of the parties Hence this book aims to thoroughly investigate the many legal issues arising in arbitral proceedings when insolvency and arbitration clash This interaction is increasingly frequent today Providing much needed practical guidance derived from a broad and deep theoretical discussion the book covers such aspects as the following the effect of insolvency on the arbitration

agreement the arbitration procedure including a potential mandatory stay of proceedings the arbitrator's contract and the arbitral award the position of insolvency and arbitration within a legal order the arbitrability of insolvency related issues and claims the possibility of determining claims in insolvency via arbitration the determining of applicable law and conflict of laws rules in particular when insolvency is opened in a different jurisdiction than that of the arbitration and insolvency in arbitration within the application of the European Insolvency Regulation After a chapter on the relevant background theories the two main chapters of the book focus first on general issues that can arise in a domestic situation and second on problems particular to international cases of insolvency in arbitration The primary domestic perspective is the German one with abundant additional detail to fully embrace the international relevance of the discussion The author concludes with a number of considerations informed by practitioner feedback discussions throughout the work and as many arbitration case law examples as possible for tribunals dealing with insolvency in arbitration Based on a systematic application of arbitration and insolvency theory the book provides an all encompassing and holistic discussion from before an arbitration is started to after the award has been enforced In this way the book provides a one stop shop for practitioners both lawyers and arbitrators helping tribunals to navigate the treacherous waters of insolvency in arbitration International Commercial Arbitration

Gary B. Born, 2020-11-23 International Commercial Arbitration is an authoritative 4 250 page treatise in three volumes providing the most comprehensive commentary and analysis on all aspects of the international commercial arbitration process that is available The Third Edition of International Commercial Arbitration has been comprehensively revised expanded and updated To include all legislative judicial and arbitral authorities and other materials in the field of international arbitration prior to June 2020 It also includes expanded treatment of annulment recognition of awards counsel ethics arbitrator independence and impartiality and applicable law The revised 4 250 page text contains references to more than 20 000 cases awards and other authorities and will enhance the treatise's position as the world's leading work on international arbitration The first and second editions of International Commercial Arbitration have been routinely relied on by courts and arbitral tribunals around the world including the highest courts of the United States United Kingdom Singapore India Hong Kong New Zealand Australia the Netherlands and Canada and international arbitral tribunals including ICC SIAC LCIA AAA ICSID SCC and PCA e g U S Supreme Court GE Energy Power Conversion France SAS Corp v Outokumpu Stainless USA LLC 590 U S U S S Ct 2020 BG Group plc v Republic of Argentina 572 U S 25 U S S Ct 2014 Canadian Supreme Court Uber v Heller 2020 SCC 16 Canadian S Ct Yugraneft Corp v Rexx Mgt Corp 2010 1 R C S 649 661 Canadian S Ct U K Supreme Court Jivraj v Hashwani 2011 UKSC 40 78 U K S Ct Dallal Real Estate Swiss Federal Tribunal Judgment of 25 September 2014 DFT 5A_165 2014 Swiss Fed Trib Indian Supreme Court Bharat Aluminium v Kaiser Aluminium C A No 7019 2005 138 39 142 148 49 Indian S Ct 2012 Singapore Court of Appeal Rakna Arakshaka Lanka Ltd v Avant Garde Maritime Servs Ltd 2019 2 SLR 131 Singapore Ct App PT Perusahaan Gas Negara Persero TBK v CRW Joint

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6 August 2019 Gold Reserve Inc v Bolivarian Republic of Venezuela Decision regarding the Claimant s and the Respondent s
Requests for Corrections ICSID Case No ARB AF 09 1 15 December 2014 Total SA v The Argentine Republic Decision on Stay
of Enforcement of the Award ICSID Case No ARB 04 01 4 December 2014 Millicom Int l Operations B V v Republic of
Senegal Decision on Jurisdiction of the Arbitral Tribunal ICSID Case No ARB 08 20 16 July 2010 Lemire v Ukraine Dissenting
Opinion of J rgen Voss ICSID Case No ARB 06 18 1 March 2011 **Procedure and Evidence in International**

Arbitration Jeffrey Waincymer, 2012-05-23 Central to the book s purpose is the procedural challenge facing arbitrators at
each and every stage of the arbitral process when fairness arguments conflict with efficiency concerns and trade offs must be
determined Some key themes include how can a tribunal be fair and in particular be neutral if parties are so diverse How can
arbitration be made efficient and cost effective without undue inroads into fairness and accuracy How does a tribunal do
what is best if the parties are choosing a suboptimal process When can or must an arbitrator ignore procedural choices made
by the parties The author thoroughly evaluates competing arguments and adds his own practical tips expertly synthesizing
and engaging with the conference literature and differing authors views He identifies criteria that offer a harmonized
approach to each stage of the arbitral process with particular attention to such aspects of international arbitration as
appropriate trade offs between flexibility and certainty the rights duties and powers of arbitrators appointment and challenge
of arbitrators responses to guerilla tactics drafting of arbitration agreements including specialty clauses drafting of required
commencement notices and response documents set off fast track arbitration and other efficiency options strategic use of
preliminary conferences and timetabling online arbitration multi party multi contract class arbitration amicus and third party
funders pre arbitral referees and interim relief witness evidence both factual and expert documentary evidence production
obligations and challenges to production identifying applicable law and remedies and costs Handbook on International
Commercial Arbitration Peter Ashford, 2014-03-01 This handbook will assist the practitioner whether lawyer counsel or
arbitrator in some of the practical minefields of international commercial arbitration It considers the typical course of an
international commercial arbitral proceeding from deciding what claims may be arbitrated to calculating damages and the
contents of an award giving guidance and sample documents for each step It also provides an extensive discussion of
discovery and the presentation of evidence during hearings This will work in aid the efficiency of the arbitral process
especially by reducing time and cost For counsel and arbitrators alike it provides a convenient reference work for the
problems that inevitably arise in the procedural and substantive steps in arbitration Analyzing the relevant law and rules
from a range of jurisdictions and international arbitral institutions the Handbook is a truly invaluable companion for everyone

involved in international commercial arbitration *The Practice of Arbitration* Patrick Wautelet,Thalia Kruger,Govert Coppens,2012-09-14 This book offers a series of commentaries on noteworthy arbitral awards and court decisions on arbitration All contributions focus on the practice of arbitration Influential authors with proven arbitration experience share their insights on celebrated and less well known cases drawn from various countries various arbitration institutions and including both commercial and investment arbitration This collection of essays celebrates the work and scholarship of Hans van Houtte who has been a professor of international commercial arbitration at the University of Leuven for more than 20 years In addition to his widely praised contribution to the theory of arbitration Professor Van Houtte has built a long career in the practice of arbitration presiding over a vast array of arbitral tribunals and holding appointments to international tribunals most recently as president of the Iran US Claims Tribunal Hans van Houtte has always been concerned with the practical usefulness of scholarly writings and this book respects this approach This volume will prove essential for all arbitration practitioners and will also be of great interest also to academics and research students with an interest in international arbitration This title is included in Bloomsbury Professional s International Arbitration online service

International Commercial Arbitration Seyoum Yohannes Tesfay,2021-02-18 This book is the first ever to explore commercial arbitration in the Ethiopian context Alternative conflict resolution mechanisms are nothing new to the country arbitration as a dispute settlement mechanism by which a third party issues a binding decision on a dispute between two or more parties by exercising the jurisdictional mandate conferred on it by the parties themselves was established with the adoption of the Civil Code in 1960 This pioneering book evaluates the extent to which Ethiopia s laws and institutions allow disputing parties to effectively reap the benefits of international commercial arbitration It interprets the relevant legislation and attempts to bridge the gaps in it in order to help lawyers arbitrators arbitral institutions academics and judges to understand and apply it It also helps parties seeking to complete international transactions pertaining to Ethiopia make the right choice regarding conflict resolution *Conflict of Laws in International Arbitration* Franco Ferrari,Stefan

Kröll,2010-12-23 Irrespective of the increasing harmonization of law at the transnational level every arbitration raises a number of conflict of laws problems relating to procedural questions as well as to issues concerning the merits of the case Unlike a state court judge the arbitrator has no *lex fori* in the proper sense providing the relevant conflict rules to determine the applicable law This raises the question of what conflict of laws rules to apply and consequently of the extent of the freedom the arbitrator enjoys in dealing with this and related issues The best example of the importance of conflict of laws questions in arbitration is the Vivendi Elektrim saga where the outcome of the various proceedings depended on the question of characterization This very beneficial book is dealing with the arbitration agreement the jurisdiction of the arbitral tribunal the law applicable to the merits and the arbitration procedure **Practitioner's Handbook on International**

Commercial Arbitration Frank-Bernd Weigand,2009-12-24 The Practitioner s Handbook on International Commercial

Arbitration provides concise country reports on important jurisdictions for international arbitral proceedings as well as commentaries on well known arbitration rules which are frequently incorporated in international legal agreements. Most international commercial contracts now include an arbitration clause as an alternative to resolving disputes in the state courts. This second edition of the Practitioner's Handbook includes newly updated country chapters, expanded international coverage and commentary on the most important arbitration rules worldwide. It is written by world leading arbitration practitioners and academics and combines a practical approach with in depth legal research and analysis of important national and international case law. The book is unique in its coverage providing uniformly designed country reports and thorough commentaries on internationally recognized arbitration rules in just one volume. There are individual chapters for the following countries: Austria, Belgium, China, and it provides details of national arbitration laws, arbitral institutions in the jurisdiction, model arbitration clauses and a bibliography including a list of key judicial decisions. The first edition was reviewed as an outstanding book and an extremely useful tool. The work is an indispensable one stop reference point for lawyers drafting international arbitration clauses or handling arbitration proceedings in different countries.

International Commercial Arbitration in Spain Miguel Gomez Jene, 2019-10-31. *International Commercial Arbitration in Spain* Miguel Gomez Jene. Although this book will be of inestimable value to comparative law and arbitration specialists, it provides especially useful guidance for practitioners confronting specific questions during an arbitration with a seat in Spain or an award to be enforced in Spain. The author, a prominent Spanish lawyer and legal scholar, describes in detail all the relevant areas of international commercial arbitration under Spanish and applicable European and international law with a rigorous analysis of the international, comparative and internal jurisprudence embedded in Spanish regulation of international commercial arbitration. Twelve expository chapters explicitly follow the scheme of the Spanish Arbitration Act and two introductory chapters cover the international and European instruments of international commercial arbitration as applied in Spain. The author covers such key principles and customary practices as the following: criteria to determine internationality, formal validity and effects of arbitration agreements, communications service and computation of time limits, arbitrability, appointment, selection and removal of arbitrators, cases in which an arbitrator may be held liable, when an arbitrator may grant interim measures, pleading and evidence of foreign law, effect of insolvency, limitation of judicial intervention and court jurisdiction, judicial proceeding to set aside an arbitral award and recognition and enforcement of arbitral awards. An up to date indispensable tool for all professionals working in the world of international arbitration, this one of a kind book will be welcomed by arbitrators, lawyers practising as counsel or arbitrators, global law firms, companies doing transnational business, arbitration academics and international arbitration centres.

International Arbitration and International Commercial Law Eric E. Bergsten, 2011-01-01. Over the last half century as UNCITRAL official professor, arbitrator and father of the Willem C. Vis Arbitration Moot, Eric Bergsten has been at the forefront of progress in international commercial arbitration. Now on the

occasion of his eightieth birthday the international arbitration and sales law community has gathered to honour him with this substantial collection of new essays on the many facets of the field to which he continues to bring his intellect integrity inquisitive nature eye for detail precision and commitment to public service Celebrating the long standing and sustained contribution Eric Bergsten has made in international commercial law international arbitration and legal education more than fifty colleagues among them quite a few of the best known arbitrators and arbitration academics in the world present 45 pieces that individually both engaging and incisive collectively present a thorough and far reaching account of the state of the field today with contributions covering international sales law commercial law commercial arbitration and investment arbitration In addition nine essays on issues in legal education mirror the great importance of the renowned Willem C Vis International Commercial Arbitration Moot Eric s Vienna project which has offered a life changing experience for so many young lawyers from all over the world

Bias Challenges in International Commercial Arbitration Sam Luttrell,2009-01-01 Shows how dirty challenge tactics are made viable primarily by the prevalence of a judicially derived test for bias which focuses on appearances rather than facts and He argues that the most commonly used test of bias the reasonable apprehension test makes it easy to allege a lack of impartiality and independence

Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards UNCITRAL Secretariat,2017-07-10 The Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards provides a detailed analysis of the judicial interpretation and application of the New York Convention by reference to case law from 45 Contracting States The Guide and the [newyorkconvention1958.org](http://www.newyorkconvention1958.org) website which supplements it will become an essential tool that benefits all those involved in the interpretation and application of the New York Convention including judges arbitrators practitioners academics and Government officials The Guide gives clear expression to the principal finding of extensive research namely that the Contracting States have interpreted and applied the New York Convention in an overwhelmingly consistent manner and that courts have diverged from the general trends in the case law in only isolated instances As such the Convention continues to fulfill its purpose of facilitating the worldwide recognition and enforcement of arbitral awards to the greatest extent possible

Redfern and Hunter on International Arbitration Nigel Blackaby KC,Constantine Partasides KC,Alan Redfern,2023-01-18 Redfern and Hunter on International Arbitration is an established treatise on the law and practice of international arbitration the pre eminent method for the peaceful resolution of disputes in international trade investment and commerce This book serves as an introduction following the chronology of an arbitration from the drafting of the arbitration agreement right through to the enforcement of the arbitral award Written by an author team with extensive experience as counsel and abitrators the book has been read and cited by international lawyers arbitrators and judges and has become a key learning text for teachers students and potential arbitrators in colleges and universities across the world The seventh edition has been significantly revised to incorporate the latest significant developments in the field including changes in

investor state dispute resolution leading court decisions on arbitration matters in a wider number of jurisdictions changes in the soft law of leading international arbitral institutions and of the International Bar Association and the impact of the COVID 19 pandemic on the practice of international arbitration This shorter paperback edition does not include the appendices

Construction Law in the 21st Century Renato Nazzini, 2024-07-30 Marking the 35th anniversary of the Centre of Construction Law Dispute Resolution at King's College London this volume brings together a large and illustrious group of contributors to create a comprehensive and authoritative guide cutting across all key areas of contemporary construction law ranging from construction arbitration to procurement and contract law It takes an international approach to construction law and considers issues such as investor State dispute settlement insolvency and liquidated damages in civil law and common law jurisdictions and procurement from a comparative perspective as well as certain key common law English law topics such as fitness for purpose that are of relevance to an international audience The book provides detailed and practical guidance to the legal framework of the construction industry for barristers solicitors arbitrators adjudicators academics contract managers construction consultants and quantity surveyors among others

Japanese Private International Law Kazuaki Nishioka, Yuko Nishitani, 2021-10-07 This is the leading reference on Japanese private international law in English The chapters systematically cover the whole of Japanese private international law not just questions likely to arise in commercial matters but also in family succession cross border insolvency intellectual property competition antitrust and environmental disputes The chapters do not merely cover the traditional conflict of law areas of jurisdiction applicable law choice of law and enforcement The chapters also look into conflict of law questions arising in arbitration and assess Japanese involvement in the global harmonisation of private international law In addition to summarising relevant principles and scholarly views the authors discuss case law whenever possible and identify deficiencies and anticipate difficulties in the existing law The book thus presents the Japanese conflict of laws through a combination of common and civil law analytical techniques and perspectives providing readers worldwide with a more profound and comprehensive understanding of the subject

Yearbook Commercial Arbitration, Volume XLV (2020) Stephan W. Schill, 2020-12-17 The Yearbook Commercial Arbitration continues its longstanding commitment to serving as a primary resource for the international arbitration community with reports on arbitral awards and court decisions applying the leading arbitration conventions and decisions of general interest to the practice of international arbitration as well as announcements of arbitration legislation and rules Volume XLV 2020 includes excerpts of arbitral awards made under the auspices of the International Chamber of Commerce ICC and the Milan Chamber of Arbitration CAM as well as twelve awards reflecting the practice of tribunals constituted under the auspices of the Arbitration Institute of the Stockholm Chamber of Commerce SCC notes on new and amended arbitration rules including references to their online publication notes on recent developments in arbitration law and practice in Ethiopia Lithuania Macao SAR Palau Peru Poland Portugal Russian Federation Seychelles Sierra Leone Singapore

Switzerland Tanzania Thailand and Tonga excerpts of 87 court decisions applying the 1958 New York Convention from 27 countries including for the first time a selection of seven cases from Egypt and cases from Tanzania and Uzbekistan all indexed by subject matter and linked to the commentaries on the New York Convention published in the Yearbook authored by former General Editor and leading expert Prof Dr Albert Jan van den Berg excerpts from two decision applying the 1965 Washington ICSID Convention and seven decisions applying the 1975 Panama Inter American Convention as well as a selection of four court decisions of general interest an extensive Bibliography of recent books and journals on arbitration The Yearbook is edited by the International Council for Commercial Arbitration ICCA the world s leading organization representing practitioners and academics in the field under the general editorship of Prof Dr Stephan W Schill and with the assistance of the Permanent Court of Arbitration The Hague It is an essential tool for lawyers business people and scholars involved in the practice and study of international arbitration

Collection of ICC Arbitral Awards 2016-2020 Jean-Jacques Arnaldez, Yves Derains, Dominique T. Hascher, 2022-02-28 The Collection of ICC Arbitral Awards 2016 2020 contains extracts of cases handled by the ICC Court of Arbitration one of the world s most respected arbitral institutions This most recent collection supplements seven previous and successful volumes containing awards from the period 1974 to 2015 This collection is a practical reference tool containing three types of useful indexes incorporating information from all three volumes a consolidated analytical table in both English and French contains extensive cross references based on the terminology used in awards and case notes a chronological index lists the awards a keyword index also provided in both languages allows the reader to locate the material of interest quickly and easily In addition to providing a wealth of information in a highly accessible manner this book includes case notes and expert commentaries on the awards This publication is an indispensable reference work for anyone interested in international arbitration and in the reasoning of international arbitrators on the interpretation and application of contractual clauses international conventions and the law of international trade It is invaluable to both scholars and practitioners involved in the drafting and negotiation of international commercial contracts and the resolution of international commercial disputes

Arbitrability Loukas A. Mistelis, 2009-01-01 It often seems today that no dispute is barred from resolution by arbitration Even the fundamental question of whether a dispute falls under the exclusive jurisdiction of a judicial body may itself be arbitrable Arbitrability is thus an elusive concept yet a systematic study of it as this book shows yields innumerable guidelines and insights that are of substantial value to arbitral practice Although the book takes the form of a collection of essays it is designed as a comprehensive commentary on practical issues that emerge from the idea of arbitrability Fifteen leading academics and practitioners from Europe and the United States each explore different facets of arbitrability always with a perspective open to international developments and comparative evaluation of standards The presentation falls into two parts in the first the focus is on the general features of arbitrability its rationale and the laws applicable to it In the second arbitrability is specifically examined in the context of

administrative criminal corporate IP financial commercial and criminal law This book has its origins in an International Conference on Arbitrability held at Athens in September 2005 Seven papers presented there are here reviewed and updated and nine others are added The subject of the book and arbitrability and is one that is much talked about but seldom if ever given the in depth treatment presented here Arbitrators and other practitioners in the field will welcome the way the analysis moves logically from theory to practice regarding every issue and academics will recognize a definitive treatment of arbitrability as understood and applied in the settlement of disputes today

Unveiling the Magic of Words: A Report on "**Insolvency Proceedings And Commercial Arbitration**"

In a world defined by information and interconnectivity, the enchanting power of words has acquired unparalleled significance. Their power to kindle emotions, provoke contemplation, and ignite transformative change is actually awe-inspiring. Enter the realm of "**Insolvency Proceedings And Commercial Arbitration**," a mesmerizing literary masterpiece penned with a distinguished author, guiding readers on a profound journey to unravel the secrets and potential hidden within every word. In this critique, we shall delve into the book's central themes, examine its distinctive writing style, and assess its profound effect on the souls of its readers.

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